

Orchard Community Primary School



Screening, Searching & Confiscation Policy

This policy was approved by the Governing Body of Orchard Primary School at their meeting on.....

Signed Chair of Governors

Version	Date	Author	Reason for Change
0.1	1/2019	FS	New Policy
0.2	1/2022	FS	Review
0.3	4/2025	FS	Re-written in line with DFE guidance July 2022

Review Frequency	Next Review Date
Every 3 years	4/2028

Introduction

This policy is based on the Department for Education advice for headteachers, school staff and governing bodies 'Searching, screening and confiscation' DfE July 2022

All school staff have a responsibility to provide a safe environment in which pupils can learn. This policy applies to all pupils. Staff will respond with care and consideration to the age of the child when following the guidance in this policy.

Staff will respond with care and consideration and make reasonable adjustments for pupils with special educational needs and/or disabilities (SEND).

Before screening or conducting a search of a pupil, our staff will consider their obligations under the European Convention on Human Rights. Under Article 8, pupils have a right to respect for their private life. In the context of these rights and obligations, this means that pupils have the right to expect a reasonable level of personal privacy.

The following UN Convention on the Rights of the Child articles also link with this policy:

- Article 3 (best interests of the child) The best interests of the child must be a top priority in all decisions and actions that affect children.
- Article 34 (sexual exploitation) Governments must protect children from all forms of sexual abuse and exploitation.
- Article 19 (protection from violence, abuse and neglect) Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.

Objectives of this policy

To outline the policy and legal powers the schools has for screening and searching pupils. It also outlines the powers the school has to seize and then confiscate items found during a search.

Searching

The law allows school staff to search a pupil for any item if the pupil agrees.

The Headteacher (and staff authorised by the Headteacher) have a statutory power to search pupils or their possessions, where they have reasonable grounds for suspecting that the pupil may have a prohibited item or items the school has banned from the school site.

Prohibited items are:

- knives or weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- vape or vaping equipment
- fireworks
- pornographic images
- any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to the property of, any person (including the pupil).

Guidance to staff:

Searching with consent

- School staff can search pupils with their consent for any item.
- Formal written consent is not required from the pupils, such as asking the pupils to turn out his or her pockets or if the teacher can look in a pupils' bag or locker and for the pupil to agree.
- Before any search takes place, the member of staff conducting the search will explain to the pupil why they are being searched, how and where the search is going to take place and give them the opportunity to ask any questions.
- Staff will seek the pupil's agreement for this search.
- The headteacher will oversee the school's practice of searching to ensure that a culture of safe, proportionate and appropriate searching is maintained, which safeguards the welfare of all pupils and staff with support from the designated safeguarding lead (or deputy).
- Our designated safeguarding lead will be informed of any search for prohibited items and /or if there is a safeguarding risk.

What happens if a pupil refuses to give consent for a search?

If the pupil is not willing to co-operate with the search, the member of staff (i.e. a Senior Leader) will consider why this is. Reasons might include that the pupils is:

- in possession of a prohibited item;
- does not understand the instruction;
- is unaware of what a search may involve; or
- has had a previous distressing experience of being searched.

If a pupil continues to refuse to co-operate, the Senior Leader may sanction the pupil in line with the school's behaviour policy, ensuring that they are responding to misbehaviour consistently and fairly.

If the member of staff still considers a search to be necessary, but is not required urgently, they will seek the advice of the headteacher, Designated Safeguarding Lead (or deputy) or pastoral member of staff who may have more information about the pupil.

Senior Leaders involved in searching will be appropriately trained in how to lawfully and safely search a pupil who is not cooperating so that they can support and advise other staff as needed.

Searching without consent: What can be searched for?

Knives, weapons, alcohol, illegal drugs and stolen items; and Tobacco and cigarette papers, fireworks and pornographic images; and electronic devices, without consent or parental permission, if there is a suspicion that the pupil has a device prohibited by school rules, or the staff member has good reason to suspect the device may be used to:

- cause harm
- disrupt teaching
- break school rules
- commit an offence
- cause personal injury
- or damage property.
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or cause personal injury to, or damage to property;
- and any item banned by the school rules which has been identified in the rules as an item which may be searched for.

Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupils, for example on school trips in England.

Any data, files or images that are believed to be illegal must be passed to the police as soon as practicable, including pornographic images of children, without deleting them.

Any data, files or images that are not believed to be unlawful, may be deleted or kept as evidence of a breach of the school's behaviour policy.

During the search

A member of staff must be the same sex as the pupil being searched; and there must be a witness (also a member of staff) and, if at all possible, they should be the same sex as the pupil being searched.

The law states:

- The person conducting the search may not require the pupils to remove clothing other than outer clothing. 'Outer clothing' means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but 'outer clothing' includes hats; shoes; boots; gloves and scarves
- 'Possessions' means any goods over which the pupils has or appears to have control – this includes desks, lockers and bags.
- A pupil's possessions can only be searched in the presence of the pupils and another member of staff, except where there is a risk that serious harm will be cause to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.
- It does NOT enable or allow an intimate search going further than that, which only a person with more extensive powers (e.g. police officer) can do.
- Members of staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force cannot be used to search for items banned under the school rules.

The school will inform the individual pupil's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.

If inappropriate material is found on a pupil's device by the teacher, the Designated Safeguarding Lead will decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.

Strip searching

The member of staff's power to search outlined above does not enable them to conduct an intimate or strip search which only a person with more extensive powers (e.g. a police officer) can do.

While the decision to undertake the strip search itself and its conduct are police matters, school staff retain a duty of care to the pupil(s) involved and must advocate for pupil wellbeing at all times. Before calling police into school, staff will assess and balance the risk of a potential strip search on the pupil's mental and physical wellbeing and the risk of not recovering the suspected item. Staff should consider whether introducing the potential for a strip search through police involvement is absolutely necessary, and should always ensure that other appropriate, less invasive approaches have been exhausted.

Once the police are on school premises, the decision on whether to conduct a strip search lies solely with them, and our role as school staff is to advocate for the safety and wellbeing of the pupil(s) involved. Unless there is an immediate risk of harm and where reasonably possible, staff should inform a parent of the pupil suspected of concealing an item in advance of the search, even if the parent is not acting as the appropriate adult.

If an item is found, this may be a police matter, but will always be accompanied by a safeguarding process handled by school staff which gives attention to the pupil's wellbeing and involves relevant staff, such as the DSL.

After the search

Whether or not any items have been found as a result of any search, staff will consider whether the reasons for the search, the search itself, or the outcome of the search give cause to suspect that the pupil is suffering, or is likely to suffer harm, and/or whether any specific support is needed. Where this may be the case, school staff will follow the school's child protection policy and speak to the designated safeguarding lead (or deputy).

Recording searches

Any search by a member of staff for a prohibited item listed and all searches conducted by police officers will be recorded, including whether or not an item is found.

The record of each search will note:

- the date, time and location of the search;
- which pupil was searched;
- who conducted the search and any other adults or pupils present;
- what was being searched for;
- the reason for searching;
- what items, if any, were found; and
- what follow-up action was taken as a consequence of the search

Confiscation

School staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to school discipline.

Under article 8 of the European Convention on Human Rights, pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect reasonable level of personal privacy.

The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school must be justified and proportionate. The powers of search in the Education Act 1996 are compatible with Article 8.

By Orchard Primary School exercising these powers lawfully it must demonstrate that it has also acted in accordance with Article 8.

A School has the statutory power to make rules on pupil behaviour as set out in Section 89 of the Education and Inspection Act 2006 for all maintained schools.

Dealing with electronic devices (Statutory Guidance)

Where the person conducting the search finds an electronic device that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the police.

Screening

Schools can require pupils to undergo screening by a walk-through or hand-held metal detector. We do not have such devices currently. The advice will be kept under review and updated as necessary.

The school's policies reflect the following guidance. Download the guidance here: Searching, screening and confiscation at school (DfE, January 2018) Keeping children safe in education - GOV.UK (www.gov.uk) Sharing

Informing Parents

Parents will always be informed of any search for a prohibited item listed that has taken place, and the outcome of the search as soon as is practicable. A member of staff will inform the parents of what, if anything, has been confiscated and the resulting action the school has taken, including any sanctions applied. If a parent makes a complaint, our normal procedures for dealing with a complaint will be followed.